

Remarks

Election of Claims

Applicant has cancelled Claims 1-68 and provided Claims 69-100 to traverse the restriction requirement and provide for a single invention to be submitted for prosecution.

Argument

The applicant has cancelled claims 1-68, and issued new claims 69-136. Claim 69-127 are drawn to a system for assaying hematopoiesis and hematotoxicity, while Claims 127-136 are drawn to an assay for assaying hematopoiesis and hematotoxicity. Claims 69-126 cannot be used in a materially different process of claims 127-136. The system in Claims 69-126 cannot be used as cell culture media for growing and isolating cell populations, because the target cell population, serum mix, methyl-cellulose mix, the growth factor mix, the medium, the ATP-releasing reagent, and the ATP luminescence-monitoring reagent are combined in an order to determine the proliferative state of the single subpopulation by luminescence output. The assays of Claims 127-136 correlate the relative luminescent units with the proliferative state of the target cell population mix. Therefore, the system in Claims 69-126 cannot be used in a materially different process than Claims 127-136.

I. Claims 69 and 81-136 Are Not Generic

In general, a generic claim should require no material element additional to those required by the species claims, and each of the species claims must require all the limitations of the generic claim. MPEP 806.04(d). Each species of Claims 103-116 require all the limitations of Claims 81-86, because Claims 104-106 are drawn to hematopoietic stem cells, Claims 108-112 are drawn to progenitor cells, and Claims 112-116 are drawn to precursor cells. Table 3 of Applicant's specification, ¶0274. Claims 81-86 are drawn to hematopoietic stem cells, progenitor cells, and combinations thereof. Therefore, the amended Claims are not generic as to require a restriction requirement.

Conclusion

In light of the preceding discussion, Applicant respectfully submits amended claims to overcome the restriction requirement. On this basis, Applicant submits that the claims should no longer be held to a restriction requirement.

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The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Rosenbaum & Associates, P.C. deposit account No. 18-2000. Should the Examiner require any further information or wish to discuss an aspect of this Response; the Examiner is encouraged to telephone the undersigned at the telephone number set forth below.

Respectfully submitted,



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